IN THE HIGH COURT OF PUNJAB AND HARYANA AT

CHANDIGARH

C. W.P. No. 4415 of 2007
Date of decision: 22.03.2007

Prem Chand .....*Petitioner*

Versus

F.C. Haryana and others .....*Respondents*

CORAM: HON'BLE MR. JUSTICE JASBIR SINGH
HON'BL MRS. JUSTICE NIRMAL YADAV

Present: Mr. G.K. Chawla, Advocate
for the petitioner

JASBIR SINGH, J. (Oral)

Dispute in this writ petition pertains to appointment of Lambardar of Village Gwal Pahari, Tehsil Sohana, District Gurgaon. On accrual of vacancy, applications were invited and after consideration of the reports made by the subordinate revenue authorities, the petitioner was appointed as Lambardar of the village. Respondent No. 3 went in appeal, which was time barred, wherein he specifically stated that no proclamation was made in the village and the factum of inviting applications came to his notice only when he came to know about appointment of the petitioner, as Lambardar of the village.

The Commissioner has specifically noted that, in fact, there is no proof that proclamation was made in the village and consequently, allowed the appeal also by noting a fact that the petitioner had been convicted in a criminal case and punishment of fine of Rs.5,000/-, was imposed upon him. The relevant portion of the order passed by the Commissioner dated

06.03.2003, reads thus:-

> *" I have carefully heard arguments of both the counsels and have found on going through the record of the lower court that the appellant has filed this appeal after about one year, in which no specific reason for delay has been given. It is found on going through the Rapt Roznamcha available on the file of Halqa Patwari and the affidavits produced by the respondent that for filling up the vacant post of Nambardar Munstri Munadi was got done in the Village. But in the absence of summon munadi and the report of person who has got done the munadi and verification at the site, the report received from the Halqa Patwari becomes doubtful. In addition, the decision taken by Arvind Kumar,Special Juduge, Gurgaon (State Vs. Prem Chand) Depot Holder Prem Chand son of Ram Kumar, FIR No. 195 dated 24.03.1995 under Section 7/10/55 of the Essential Commodities Act, which was decided by the above Court on 20.08.1998, the respondent was awarded punishment of fine of Rs.5,000/-. Besides this, a criminal case is also pending. Keeping in view the prestige of the post of Nambardar, a person who has been awarded punishment/quarrelsome type cannot be appointed Nambardar. Therefore, the order dated 20.06.1996 of District Collector, being irregular is set aside. Although it is clear that the appeal of the appellant is time barred, but keeping in view the fact that the action of proclamation is doubtful, the appeal deserves to be accepted. The appeal is accepted and the case is sent to the Collector, Gurgaon with the direction that in this matter mushtri munadi be got done in the village again and the action to fill up the post of Nambardar in the village be taken afresh as per rules. The case be put up before the Collector, Gurgaon on 07.08.2003."*

The petitioner went in revision, which was dismissed. The Financial Commissioner gave an opportunity to the petitioner to prove that proclamation was done by the Chowkidar of the village, for inviting applications to the post of Lambardar, but he failed to produce any report made by the Chowkidar with regard to effecting proclamation in the village. In view of this, we feel that the order passed by the Commissioner and Financial Commissioner, are perfectly justified. It is open to the petitioner to prove his case, on merit ,before the Collector, to whom the matter has been remanded. No case is made out for interference.

Dismissed.

(JASBIR SINGH)
JUDGE

(NIRMAL YADAV)
JUDGE

March 22, 2007
mohan